

EXHIBIT 23

POLITICS

Delaware's first new voting machines in decades are on their way



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Delawareans will soon cast their ballots on new voting machines for the first time in two decades.

But some watchdogs are questioning whether state officials chose the best equipment when they chose to purchase a new and largely unproven voting system.

“They had it in their minds to choose this system regardless of the facts about it,” said Jennifer Hill, director of Common Cause Delaware. “This system is brand new so we don’t know what to expect.”

Those claims did not dissuade lawmakers Monday from approving a \$13 million contract to buy a fleet of new voting machines, along with new systems for registering voters, checking them in at their polling places and counting absentee ballots.

All of the new equipment will be supplied by Election Systems & Software, including roughly 1,500 of the Nebraska-based company’s new ExpressVote XL machines.

State officials say those systems will provide the first, verifiable paper trail of Delaware voters’ ballots in decades and allow for a full audit of election results – something not possible under the current system.

Starting with municipal and school board elections in 2019, voters will receive a blank paper ballot that they will load into one of the new voting machines.

Once inside the polling booth, voters will make their choices on an electronic screen before verifying their vote, which the machine will transfer to the paper ballot. Voters then will be able to examine the paper ballot for accuracy before the machine drops it into a locked box once they are finished.

To make that new system legal, the General Assembly will need to pass a bill that recognizes those paper cards as the official ballot of record.

“We think this is a good system for Delaware,” State Election Commissioner Elaine Manlove said. “It looks like what Delaware voters are used to plus it has the paper every one needs to have now.”

First deployed in 1996, Delaware’s current voting machines only record votes electronically. Delaware is one of only five states still using voting machines that never let voters see a copy of their ballot to ensure its accuracy.

While the age of those machines means they cannot be connected to the internet, the lack of paper ballot has led Democrats on the U.S. House Administration Committee and the left-leaning think tank Center for American Progress to warn about the potential for election fraud.

Despite those issues, Common Cause and the Delaware Coalition for Open Government wanted the state to delay purchasing new machines until officials could gather more information about the new voting system first proposed publicly less than a week ago.

The ExpressVoteXL machines, they noted, were federally certified by the U.S. Election Assistance Commission for the first time earlier this year. Manlove said Delaware will be the first state in the nation to buy these specific models but company officials said the machines were previously purchased by an unidentified jurisdiction in New Jersey.

ES&S equipment similar to what Delaware purchased already has produced election issues elsewhere.

Johnson County in Kansas used its recently-acquired ExpressVote machines for the first time in August, only to discover a coding error that prevented votes from being counted until the next morning, resulting in apologies from both the company and county officials, according to the Kansas City Star.

Manlove and an ES&S spokeswoman said Monday that Delaware purchased different machines than those used in Johnson County. The company’s website, however, indicates both systems are part of the ES&S’s EVS 6000 suite.

Desmond Kahn of DelCOG said the new system is an improvement over the state’s current voting machines but still amounts to what he described as “privatizing the counting of votes.”

“The proposed system has a secret code ... and no one knows what that is composed of,” he said. “This is not transparent and is not something that inspires trust by the voters of Delaware.”

The concerns raised by DelCOG and Common Cause are just the latest wrinkle in what has been a long battle over the state’s efforts to acquire a new voting system.

The Delaware General Assembly first created a task force to recommend new machines in mid-2016 but then delayed appointing its members for months. Led by Manlove, the 12-member task force did not hold its first meeting until mid-2017 – four months after it was supposed to present its final recommendations to the Legislature.

The task force and the Office of Management and Budget received bids from seven vendors in January and later selected a favorite. But officials refused to release the bid documents, the name of the finalist or the full cost until the deal was final.

Common Cause obtained versions of the bid documents with the financial details redacted after it successfully sued the state under the Freedom of Information Act. The group published those documents online in August.

The task force then voted unanimously to formally recommend ES&S as the winning bidder on Thursday – four days before presenting its findings to the General Assembly’s Joint Committee on Capital Improvement.

State law requires only that the committee’s two Democratic co-chairs approve the purchase. But four other lawmakers present – all Republicans – backed their decision in an unofficial vote.

State Sen. David Sokola, D-Newark, said some people raising questions about the new voting system are willfully ignoring the answers and assurances that already have been provided to them.

“I sat in with [Manlove] and one of the advocates, who is not here today, for about two hours and frankly I left the room thinking she had responded to the concerns,” he said. “The process, while it had its weaknesses – things I would have liked to have seen – it was pretty good.”

Fellow co-chair Quinn Johnson, D-Middletown, agreed.

"It is a new system and there will be a new process in place so I can guarantee there will be issues," he said. "But that's the whole point of getting it out now and addressing it. You cannot think any system will be 100 percent perfect."

The \$13 million cost of the new machines is almost exactly what lawmakers budgeted for the purchase this summer. Roughly \$3 million of the purchase cost will be paid through a federal grant with the rest coming from state funds allocated in the capital bond bill.

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